

Court No. - 5

Case :- WRIT - A No. - 6964 of 2010

Petitioner :- Swami Nath Singh @ Lav Singh

Respondent :- State Of U.P. Through Secy.Social Welfare
Lucknow And Others

Counsel for Petitioner :- N.N.Jaiswal,Km. Vishwa
Mohini,Vimal Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Irshad Ali,J.

1. Heard Km. Vishwamohini, learned counsel for the petitioner and learned Standing Counsel for the State-respondent.

2. Learned counsel for the petitioner submits that the petitioner was appointed on the post of Assistant Teacher at Sri Sant Raidas Harijan Primary Pathshala, Swaroop Nagar, Mardani, Sirsana, District Mau by the appointment letter dated 1.7.1990. Thereafter, approval was also granted by the competent authority vide order dated 15.4.1994. In pursuance to the same, the petitioner was getting regular salary each and every month on the post in question.

3. However, all of a sudden, the salary of the petitioner was stopped w.e.f. January, 2009 in view of the government order dated 16.1.2004. The petitioner has filed Writ Petition No.27864 (S/S) of 1999, in which, on 12.7.1999, this Court passed the following order :-

"Heard learned counsel for the petitioner this petition is disposed of with the direction to the authority concerned to decide the petitioners representation dated 21.3.1999 preferably within two months of production of a certified copy of this order in accordance with law."

4. Learned Standing Counsel submits that he has not received instruction and prays for the grant of some time for the said purpose.

5. Learned Standing Counsel is seeking adjournment and the case is of the year 2010, hence, no such adjournment can be granted to the learned Standing Counsel.

6. In view of the above fact that the government order dated 16.1.2004 cannot be operated retrospectively, thus, the same has got no effect in the case of the petitioner as he was getting salary each and every month from the date of his initial

appointment i.e. from the year 1990 and on the said basis, the salary of the petitioner cannot be stopped by the respondent.

7. Looking to the above facts and circumstances of the case, writ of mandamus is issued to the respondents to pay the salary of the petitioner w.e.f. 15.4.1994 to 31.12.2006 inasmuch as regular salary month by month on the post in question.

8. With the aforesaid observation and direction, the writ petition succeeds and is **allowed**.

Order Date :- 28.11.2023

Gautam